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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,157	01/17/2006	Daniel D'Amico	AF207/2003	6437
7590 David W Carrithers Carrithers Law Office One Paragon Centre Suite 140 6060 Dutchman's Lane Louisville, KY 40205			EXAMINER JOYNER, KEVIN	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 02/21/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/544,157

**Applicant(s)**

D'AMICO ET AL.

**Examiner**

KEVIN C. JOYNER

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 11/13/07.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group II, claims 2-16 in the reply filed on November 16, 2007 is acknowledged. The traversal is on the ground(s) that inventions of Group II and Group III are not necessarily independent and this classification by itself is an insufficient basis for requiring restriction between the claims since the Group III claims are dependent claims depending from the only independent claim in Group II. This is not found persuasive because Group III (claims 17-19) is an independent set of claims. Specifically, claim 17 does not depend from any other claim, wherein claims 18 and 19 are dependent upon claim 17.

The requirement is still deemed proper and is therefore made FINAL.

2. The Applicant's election to cancel claims 1 and 17-21 is hereby acknowledged.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2-6, 8-11 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Loveren et al. (U.S. Patent No. 4,614,299).

Van Loveren discloses an air flow through air freshening member for a vehicle cabin air circulating system comprising a base strip of porous material, a selected quantity of particulate material having an air freshening substance releasably retained therein, and means retaining said particulate material on said base strip (column 12, lines 10-54), wherein said base strip is a mesh polymer comprising polyesters, polyethylene or nylon (concerning claims 14-16; column 5, lines 17-25). Regarding claim 3, the reference also discloses that the particulate material is located in selected areas spaced apart from one another on said base strip, wherein said areas are enlarging pockets (concerning claims 4 & 5) in Figures 11-14. Regarding claim 6, the reference also discloses that the pockets are elongate and extending in a direction cross-wise of said base strip (concerning claim 8), and integrally formed with said base strip as shown in Figures 11-14 as well. Regarding claims 9 and 10, said elongate pockets extend in a direction transverse relative to the length of said base strip and are spaced apart at a selected distance from one another (Figure 11).

Regarding claim 11, Van Loveren continues to disclose that said particulate material is sufficiently coarse as to allow air from an air circulating system to readily flow there through (column 5, lines 26-30; column 9, lines 52-58; column 12, lines 40-55).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Loveren et al. (U.S. Patent No. 4,614,299) in view of Maleeny et al. (U.S. Publication No. 2003/0097936).

Van Loveren is relied upon as set forth in reference to claim 5 above. Van Loveren does not appear to disclose that said pockets are separate members and means attaching said pocket members to said base strip at positions spaced apart from one another longitudinally there along. Maleeny discloses an air flow through air freshening member capable of being used in a vehicle cabin air circulating system comprising a base strip and particulate member as shown in Figure 3. The reference continues to disclose that said particulate materials are pockets that are separate members and means attaching said pocket members to said base strip at positions spaced apart from one another longitudinally there along in order to allow said particulate materials to be placed and spaced upon said base strip in any manner necessary (paragraphs 34-36). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pockets of Van Loveren so that said pockets are separate members and means attaching said pocket members to said base strip at positions spaced apart from one another longitudinally there along in order to allow an operator to place an efficient amount of particulates to said base strip to ensure proper performance as exemplified by Maleeny.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Loveren et al. (U.S. Patent No. 4,614,299) in view of Brun (U.S. Patent No. 6,524,375).

Van Loveren is relied upon as set forth in reference to claim 11 above. Van Loveren does not appear to disclose that said particulate material comprises beads of an acetate material wherein said beads are impregnated with a slow time release substance having a preselected fragrance. Brun discloses an air flow through air freshening member for a vehicle cabin comprising a porous particulate (2) with a plurality of beads contained therein (column 2, lines 45-62). The reference continues to disclose that the beads (7) are of an acetate material wherein said beads are impregnated with a slow time release substance having a preselected fragrance (column 3, lines 20-35). The beads comprising an acetate with a slow time release preselected fragrance is provided in order to conserve said fragrance in optimum conditions prior to using the filter as well as providing a pleasant scent to a user (column 1, lines 29-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Van Loveren with a plurality of beads of an acetate material impregnated with a slow time release substance having a preselected fragrance in order to conserve said fragrance in optimum conditions prior to using the filter as well as providing a pleasant scent to a user as exemplified by Brun.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLADYS JP CORCORAN/  
Supervisory Patent Examiner  
Art Unit 1797

KCJ